

AMENDED IN SENATE JULY 5, 2007  
AMENDED IN ASSEMBLY APRIL 18, 2007  
AMENDED IN ASSEMBLY APRIL 11, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1324**

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**Introduced by Assembly Member De La Torre**  
*(Coauthor: Senator Cedillo)*

February 23, 2007

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An act to amend Section 1371.8 of the Health and Safety Code, and to amend Section 796.04 of the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

AB 1324, as amended, De La Torre. Health care coverage: ~~rescinded coverage.~~ *treatment authorization.*

Existing law provides for regulation of health care service plans by the Director of the Department of Managed Health Care. Existing law provides for the regulation of health insurers by the Insurance Commissioner.

Existing law provides that a health care service plan or a health insurer that authorizes a specific type of treatment by a health care provider shall not rescind or modify this authorization after the provider renders the health care service in good faith and pursuant to the authorization.

This bill would ~~state that a provider has rendered health care services in good faith under specified circumstances, and that a plan or insurer does not avoid its obligations under these provisions by rescinding or modifying a health care service plan contract or a policyholder's policy or certificate~~ *additionally specify that a health care service plan or a*

*health insurer is precluded from rescinding or modifying its authorization for any reason, including its subsequent rescission, cancellation, or modification of the contract or its subsequent determination that it did not make an accurate eligibility determination for the treatment.* The bill would also state that these provisions are declaratory of existing law *and that it is not the intent that they affect pending litigation, as specified.*

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 1371.8 of the Health and Safety Code is  
2     amended to read:  
3     1371.8. A health care service plan that authorizes a specific  
4     type of treatment by a provider shall not rescind or modify this  
5     authorization after the provider renders the health care service in  
6     good faith and pursuant to the authorization *for any reason,*  
7     *including, but not limited to, the plan's subsequent rescission,*  
8     *cancellation, or modification of the enrollee's or subscriber's*  
9     *contract or the plan's subsequent determination that it did not*  
10    *make an accurate determination of the enrollee's or subscriber's*  
11    *eligibility for the treatment.* This section shall not be construed to  
12    expand or alter the benefits available to the enrollee or subscriber  
13    under a plan. ~~A provider has rendered health care services in good~~  
14    ~~faith under this section when the health care service plan has~~  
15    ~~authorized the services by verifying eligibility of a member or~~  
16    ~~otherwise communicating that the member is covered under an~~  
17    ~~enrollee's or subscriber's plan contract, or, in the case where an~~  
18    ~~enrollee's or subscriber's plan contract requires preapproval for a~~  
19    ~~particular service, the provider has obtained that preapproval. A~~  
20    ~~health care service plan does not avoid its obligations under this~~  
21    ~~section by rescinding or modifying the enrollee's or subscriber's~~  
22    ~~plan contract. The~~ The Legislature finds and declares that the  
23    amendments made to this section by the act amending the section  
24    in the first year of the 2007–08 Regular Session of the Legislature  
25    do not constitute a change in, but are declaratory of, existing law,  
26    *and it is not the intent for these amendments to affect litigation*  
27    *pending at the time of the act's effective date.*

1 SEC. 2. Section 796.04 of the Insurance Code is amended to  
2 read:

3 796.04. A health insurer that provides coverage for hospital,  
4 medical, or surgical expenses that authorizes a specific type of  
5 treatment for services covered under a policyholder's contract or  
6 plan by a provider shall not rescind or modify this authorization  
7 after the provider renders the health care service in good faith and  
8 pursuant to the authorization *for any reason, including, but not*  
9 *limited to, the insurer's subsequent rescission, cancellation, or*  
10 *modification of the insured's or policyholder's contract or the*  
11 *insurer's subsequent determination that it did not make an accurate*  
12 *determination of the insured's eligibility for the treatment.* This  
13 section shall not be construed to expand or alter the benefits  
14 available or the terms and conditions of the contract as may be  
15 agreed upon between a policyholder, certificate holder, or trust,  
16 and the insurer. ~~A provider has rendered health care services in~~  
17 ~~good faith under this section when the health insurer has authorized~~  
18 ~~the services by verifying eligibility of an insured or otherwise~~  
19 ~~communicating that the insured is covered under a policyholder's~~  
20 ~~policy or certificate, or, in the case where the policyholder's policy~~  
21 ~~or certificate requires preapproval for a particular service, the~~  
22 ~~provider has obtained that preapproval. A health insurer does not~~  
23 ~~avoid its obligations under this section by rescinding or modifying~~  
24 ~~the policyholder's policy or certificate.~~ The Legislature finds and  
25 declares that the amendments made to this section by the act  
26 amending the section in the first year of the 2007–08 Regular  
27 Session of the Legislature do not constitute a change in, but are  
28 declaratory of, existing law, *and it is not the intent for these*  
29 *amendments to affect litigation pending at the time of the act's*  
30 *effective date.*

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